



October 29, 2001

Ms. Sarajane Milligan  
Assistant County Attorney  
County of Harris  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002-1700

OR2001-4933

Dear Ms. Milligan:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 154068.

The Harris County Sheriff's Office (the "sheriff's office") received a request for

1. All documents with booking information for Andrea Pia Yates . . . , including any, without limitation, information regarding Ms. Yates's arrest condition.
2. All documents with information related to Ms. Yates's physical condition at the time of her arrest, or between the time of her arrest and her incarceration.

You contend that the information is excepted from disclosure under sections 552.101, 552.103, 552.107, and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the information at issue. We have also considered the requestor's comments. Gov't Code § 552.304.

First, you assert that section 552.107(2) excepts the requested information from public disclosure. Section 552.107(2) excepts information that a court by order has prohibited from disclosure. The sheriff's office has submitted an order from the 230<sup>th</sup> District Court. The order states that all attorneys involved in the case "shall refrain from making 'extrajudicial statements'" and all attorneys, their staff, witnesses, and law enforcement officers involved in the case shall not discuss the case with the media. The order does not prohibit third parties from attending any live court sessions or from publishing any information already obtained

or obtained in the future. Thus, the order does not make confidential or prohibit the sheriff's office from releasing information in accordance with the act. *See generally* Open Records Decision No. 478 (1987) (statutory confidentiality requires express language making particular information confidential). Therefore, section 552.107(2) does not except the requested information from public disclosure.

Next, you assert that the requested information is excepted from disclosure based on section 552.108 of the Government Code. Section 552.108 of the Government Code states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). You inform us that the requested information pertains to a pending case. We therefore believe that the release of the information "would interfere with the detection, investigation, or prosecution of crime." *Id.* Thus, you may withhold the requested information from disclosure based on section 552.108(a)(1).

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). We understand that, in a conversation with Assistant Attorney General Julie Joe, you stated that you would release the basic information to the requestor in response to the requestor's prior request for information. If you have not already done so, you must now release the basic information. We note that basic information may not be withheld from public disclosure under section 552.103. Open Records Decision No. 597 (1991). We further note that, except for the arrestee's social security number, the highlighted information is not information considered to be basic information under *Houston Chronicle Publ'g Co.* and may be withheld under section 552.108(a)(1). *See Houston Chronicle Publ'g Co.*, 531 S.W.2d at 180, 188 (following information from police blotter is basic information: arrestee's social security number and booking information). Because section 552.108 is dispositive, we do not address your other claims.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days.

*Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

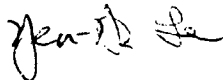
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/sdk

Ref: ID# 154068

Enc. Submitted documents

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(w/o enclosures)